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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,207	02/24/2006	Tetsuhiro Ishikawa	10517-271	7847
23838 7590 07/17/2009 KENYON & KENYON LLP 1500 K STREET N.W. SUITE 700 WASHINGTON, DC 20005				
EXAMINER BOBISH, CHRISTOPHER S				
ART UNIT 3746		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/531,207

Applicant(s)

ISHIKAWA ET AL.

Examiner

CHRISTOPHER BOBISH

Art Unit

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15, 16 and 18-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15, 16 and 18-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/05/2009 has been entered.

Response to Amendment

The response filed on 05/05/2009 under 37 CFR 1.131 has been considered but is ineffective to overcome the Takabayashi, Nonobe and Takatoshi references as presented below in a new rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The use of the language "predetermined number of times..." in claim 15 is unclear and indefinite. Specifically, it is unclear as to what the term "times" is referring.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15 and 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takabayashi (US Patent No. 4,741,978) in view of Takatoshi et al (EP 1 235 340 A2, as in the IDS) in view of Sugiyama (US Patent No. 4,968,338).

Takabayashi teaches:

limitations from claim 15, a hydrogen operated power system, comprising: a supply system which supplies a gaseous fuel from a fuel supply tank, **C. 2 Lines 31-34**, to a hydrogen operated power source, **FIG. 2 (1) C. 2 Line 27**; and a pump, **FIG. 2 (5) C. 2 Line 34**, provided in the supply system, which is driven by a motor, **FIG. 2 (6) C. 2 Line 36**; and an abnormality detecting portion, **FIG. 1**

(24, 25, 26) C. 3 Lines 20-46, which detects a plurality of types of different abnormalities related to driving the motor;

Takabayashi teaches a motor without mentioning a sensor, however Takatoshi specifically teaches the need for a pump motor to be constructed without sensors:

limitations from claim 15, a pump **(7)** and a sensor-less motor **(8)** for driving said pump, **C. 2 paragraphs [0008, 0009] and C. 6 paragraphs [0042, 0045];**

It would have been obvious to one having ordinary skill in the art of pump/motor systems at the time of the invention to provide a sensor-less motor as taught by Takatoshi to drive the pump taught by Takabayashi in order to increase the motor durability due to the lack of any fragile sensors.

Neither Takabayashi nor Takatoshi teaches a counting of abnormalities to determine an abnormality, but Sugiyama does.

Sugiyama teaches:

limitations from claim 15, wherein a pump **(1)** and a pump motor **(1a)** are controlled by an abnormality detecting portion **(12)**; wherein said detecting portion counts the number of the detected abnormalities **(via 12a)**, regardless of type, compares the number of the detected abnormalities with a predetermined number of times, and determines that an abnormality has occurred in the supply system when the number of the detected abnormalities reaches the predetermined number of times **(C. 5 Line 26 to C. 6 Line 5)**, after an instruction has been given to start the motor until a predetermined period of time has passed;

It would have been obvious to one of ordinary skill in the art of pump/motor systems at the time of the invention to provide a counting and comparing operation as taught by Sugiyama in the system as taught by Takabayashi and modified by Takatoshi in order to avoid erroneous detections and motor shutdown, resulting in continuous driving of the motor.

Takabayashi, Takatoshi and Sugiyama disclose and teach of the power system in claim 15.

Sugiyama further teaches:

limitations from claim 23, further comprising: an abnormality detecting portion **(12)** which detects **(12a)** a plurality of types of different abnormalities related to driving of the motor **(1a)**; and a system stopping portion which stops the system when an abnormality, regardless of type, has been detected a predetermined number of times within a predetermined period of time by the abnormality detecting portion **(C. 5 Line 26 to C. 6 Line 5)**;

limitations from claims 22 and 24, a restart instructing portion instructing a system to restart when an abnormality has been detected by the abnormality detecting portion, and stopping the system when the restart portion determines there is an abnormality, **C. 5 Lines 42-54, C. 6 Lines 19-25**;

limitations from claim 25, wherein the abnormality detecting portion detects, as one of the plurality of abnormalities, at least one of an **over-current abnormality** in the motor, a short-circuit current abnormality in an element in the motor, and a lock abnormality in the motor, **C. 5 Lines 29-32**;

Takabayashi, Takatoshi and Sugiyama disclose and teach of the power system in claim 15.

Sugiyama further teaches:

limitations from claim 26, wherein the hydrogen operated power source **(1)** is a fuel cell, **C. 2 Line 26**;

Claims 15-16, 18, 20, 21, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nonobe et al (USPGPUB No. 2002/0094467 A1) in view of Takatoshi et al (EP 1 235 340 A2, as in the IDS) in view of Sugiyama (US Patent No. 4,968,338).

Nonobe teaches:

limitations from claim 15, a hydrogen operated power system, comprising: a supply system which supplies a gaseous fuel from a fuel supply tank, **FIG. 4 (300) ¶ 80**, to a hydrogen operated power source, **FIG. 4 (100) ¶ 26 and 75**; and

a pump; and an abnormality detecting portion which detects a plurality of types of different abnormalities related to driving a motor, ¶ 72-73 and 81;

Nonobe does not teach a sensorless motor, but Takatoshi does.

Takatoshi teaches:

limitations from claim 15, a pump (7) and a sensorless motor (8) for driving said pump, C. 2 paragraphs [0008, 0009] and C. 6 paragraphs [0042, 0045];

It would have been obvious to one having ordinary skill in the art of pump/motor systems at the time of the invention to provide a sensorless motor as taught by Takatoshi to drive the pump taught by Nonobe in order to increase the motor durability due to the lack of any fragile sensors.

Neither Nonobe nor Takatoshi teaches a counting of abnormalities to determine an abnormality, but Sugiyama does.

Sugiyama teaches:

limitations from claim 15, wherein a pump (1) and a pump motor (1a) are controlled by an abnormality detecting portion (12); wherein said detecting portion counts the number of the detected abnormalities (via 12a), regardless of type, compares the number of the detected abnormalities with a predetermined number of times, and determines that an abnormality has occurred in the supply system when the number of the detected abnormalities reaches the predetermined number of times (C. 5 Line 26 to C. 6 Line 5), after an instruction has been given to start the motor until a predetermined period of time has passed;

It would have been obvious to one of ordinary skill in the art of pump/motor systems at the time of the invention to provide a counting and comparing operation as taught by Sugiyama in the system as taught by Nonobe and modified by Takatoshi in order to avoid erroneous detections and motor shutdown, resulting in continuous driving of the motor.

Nonobe, Takatoshi and Sugiyama disclose and teach of the power system in claim 15.

Nonobe further teaches:

limitations from claim 16, wherein a supply system circulates the gaseous fuel supplied from the fuel supply tank (300) to the hydrogen operated power source (100) via a circulation path, FIG. 4 (401, 403) ¶ 80, so as to supply the gaseous fuel to the hydrogen operated power source, and the pump (410) circulates the gaseous fuel in the circulation path, ¶ 85;

limitations from claim 18, wherein a supply system is provided with a check valve, FIG. 4 (426) ¶ 80, mounted on a discharge side of the pump (410), and the abnormality determining portion (as taught by Sugiyama) determines sticking of the check valve to be an abnormality in the supply system, ¶ 72 discusses the failure of a valve (404) to be a detectable abnormality in the system, and while this is not the check valve immediately at the discharge side of the pump, examiner believes that the malfunction of the check valve (426) would cause similar pressure changes and it would have been obvious to one having ordinary skill in the art to monitor this valve for failure as well or in place of the other valve (404);

limitations from claim 20, further comprising a pressure detecting portion which detects a pressure on the discharge side of the pump, and the abnormality determining portion determines whether the check valve is stuck based on the pressure detected by the pressure detecting portion, the upper half of ¶ 72 teaches a valve failure leading to a detectable pressure change in the system, the substitution of different abnormalities to monitor the system is considered by the examiner to be a routine skill to one of ordinary skill in the art;

limitations from claim 21, further comprising a system stopping portion which stops the system when it has been determined by the abnormality determining portion that there is an abnormality in the check valve, ¶ 72-73;

limitations from claim 26, wherein the hydrogen operated power source is a fuel cell, FIG. 4 (100) ¶ 77;

limitations from claim 27, wherein the hydrogen operated power system is a hydrogen engine, ¶ 3 - ¶ 5.

Claims 19, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nonobe et al (USPGPUB No. 2002/0094467 A1) in view of Takatoshi et al (EP 1

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235 340 A2) in view of Sugiyama (US Patent No. 4,968,338) as applied to claims 15 and 18 above, and in further view of Ferguson et al (US Patent No 6,463,949 B2).

Nonobe, Takatoshi and Sugiyama teach and disclose of the power system of claim 18.

Ferguson further teaches:

limitations from claims 20 and 21, a method of detecting valve failure based on system pressure, and shutting the system down when an abnormality occurs, **C. 5 Lines 11-23;**

It would have been obvious to one having ordinary skill in the art of pumps/valves at the time of the invention to combine the method of detecting abnormalities in valves as taught by Ferguson with the power system of Nonobe as modified by Takatoshi and Sugiyama in order to protect the system from damage C. 1 Lines 18-23;

limitations from claim 19, further comprising an outside air temperature detecting portion which detects an outside air temperature, and the abnormality determining portion determines whether the check valve is stuck based on the outside air temperature detected by the outside air temperature detecting portion, **C. 1 Lines 18-23 of Ferguson teach that temperature of a fluid can be monitored in order to detect an abnormality in a valve, it would have been obvious to one having ordinary skill in the art of fuel pump systems to monitor the temperature outside of the system alternatively, as is known in the art of fuel systems, to monitor a valve;**

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nonobe et al (USPGPUB No. 2002/0094467 A1) in view of Takatoshi et al (EP 1 235 340 A2) in view of Sugiyama (US Patent No. 4,968,338) in view of Ferguson et al (US Patent No 6,463,949 B2) as applied to claims 15, 18, 20 and 21 above, and in further view of Sugawara et al (US Patent No 7,279,242 B2).

Nonobe, Takatoshi, Sugiyama and Ferguson teach and disclose of the pump of claims 15 and 18.

Neither Nonobe nor Takatoshi nor Sugiyama teach of monitoring an outside air temperature; Ferguson teaches monitoring a temperature of fluid inside the system, to check a valve status.

Sugawara teaches a section to monitor an outside air temperature of a system to control a valve.

limitations from claim 19, further comprising an outside air temperature detecting portion which detects an outside air temperature, C. 6 Lines 52-63;

It would have been obvious to one having ordinary skill in the art of pump/valve systems at the time of the invention to combine the temperature sensing system of Sugawara with the power system taught by Nonobe and modified by Takatoshi, Sugiyama and Ferguson in order to prevent system damage by running a pump/motor while an abnormality in the system exists. Furthermore, one of ordinary skill in the art would be able to conclude from Sugawara that an abnormal change in temperature measured would be related to the function of a valve.

Response to Arguments

Applicant's arguments with respect to claim 15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER BOBISH whose telephone number is

(571)270-5289. The examiner can normally be reached on Monday through Thursday, 7:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571)272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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